

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

AUGUST J. DALLAS,

Defendant.

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8:06CR78

REPORT AND RECOMMENDATION
AND ORDER

At the conclusion of the July 1, 2008 hearing, held pursuant to 18 U.S.C. § 4246, I found and stated my findings of fact and conclusions of law on the record.

The court finds, by clear and convincing evidence, that the defendant is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another, and that defendant should be committed to the custody of the Attorney General.

Pursuant to 18 U.S.C. § 4246(d), the Attorney General shall release the defendant to the appropriate official of the State in which the defendant is domiciled or was tried if such State will assume responsibility for his custody, care, and treatment. The Attorney General shall make all reasonable efforts to cause such a State to assume such responsibility. If, notwithstanding such efforts, neither such State will assume such responsibility, the Attorney General shall hospitalize the defendant for treatment in a suitable facility, until:

- (1) such a State will assume such responsibility; or
- (2) the defendant's mental condition is such that his release, or his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment would not create a substantial risk of bodily injury to another person or serious damage to property of another;

whichever is earlier. The Attorney General shall continue periodically to exert all reasonable efforts to cause such a State to assume such responsibility for the defendant's custody, care, and treatment.

Pursuant to 18 U.S.C. §4247(e)(1)(B), the director of the facility in which the defendant is committed shall prepare **annual reports** concerning the mental condition of the defendant and containing recommendations concerning the need for his continued commitment. The annual

reports shall be submitted to this court and to all counsel of record in this matter beginning **August 1, 2009**.

Further, the director of the facility in which the defendant is committed shall inform the defendant and his attorney of record of any rehabilitation programs that are available for persons committed in that facility.

For the reasons stated on the record,

IT IS RECOMMENDED to the Honorable Laurie Smith Camp, United States District Judge, that the findings and directions set out above be adopted.

FURTHER, IT IS ORDERED:

1. August J. Dallas is committed to the custody of the Attorney General, pursuant to the provisions of 18 U.S.C. § 4245(d).

2. Pursuant to 18 U.S.C. §4247(e)(1)(B), the director of the facility in which the defendant is committed shall prepare **annual reports** concerning the mental condition of the defendant and containing recommendations concerning the need for his continued commitment. The annual reports shall be submitted to this court and delivered to all counsel of record in this matter. The first such report shall be filed no later than **August 1, 2009**.

3. The clerk shall cause an expedited transcript of the hearing to be prepared and filed.

4. Pursuant to NECrimR 57.3, any objection to this Report and Recommendation shall be filed with the Clerk of the Court within ten (10) business days after the unredacted transcript is available to counsel. Failure to timely object may constitute a waiver of any such objection. The brief in support of any objection shall be filed at the time of filing such objection. Failure to file a brief in support of any objection may be deemed an abandonment of the objection.

DATED July 2, 2008.

BY THE COURT:

**s/ F.A. Gossett
United States Magistrate Judge**